# *立法會*
# *Legislative Council*

LC Paper No. CB(1)430/18-19(02)

Ref: CB1/BC/5/18

**Bills Committee on Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018**

**Background brief**

## Purpose

This paper provides background information on the Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018 ("the Bill"). It also summarizes the major views and concerns expressed by members of the Panel on Financial Affairs ("the Panel") on the proposed legislative amendments.

## Background

2. In the 2018-2019 Budget Speech, the Financial Secretary suggested introducing tax concessions to encourage the development of the deferred annuity market so as to offer more options to people in making financial arrangements for retirement, and the same tax concessions would also be applicable to Mandatory Provident Fund Voluntary Contributions ("MPF VCs"). The Insurance Authority ("IA") has been tasked to issue guidelines such that premiums for deferred annuity products that meet the requirements in the guidelines will be tax deductible. MPF VCs that enjoy tax deductions will be subject to the same preservation requirements as applicable to MPF Mandatory Contributions ("MPF MCs").

Mandatory Provident Fund Voluntary Contributions

3. At present, MPF MCs by employees are tax deductible under salaries tax, personal assessment and profits tax (for self-employment cases) and subject to the preservation requirements, i.e. withdrawal is allowed only upon

retirement at the age of 65 or on statutorily permissible grounds.[1] MPF VCs by employees are usually deducted from the employees' monthly salary and paid to MPF trustees by employers, in the same manner as MPF MCs. MPF VCs are not tax deductible and can be withdrawn relatively flexibly, i.e. not subject to the preservation requirements.

4. The Administration has proposed to continue to exempt MPF VCs from the preservation requirements but such VCs will not be tax deductible. If a scheme member with an MPF contribution account or personal account wishes to benefit from tax deduction under salaries tax and personal assessment, he or she must put the MPF VCs in a new separate Tax Deductible Voluntary Contribution ("TVC") account. All existing MPF MCs' preservation requirements will apply to the accrued benefits in the TVC account.

5. Occupational Retirement Schemes ("ORSO schemes") exempted from the provisions of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) ("MPFSO") by virtue of section 5 of Cap. 485 (i.e. MPF-exempted ORSO schemes) are grandfathered ORSO schemes established before the MPF System was introduced.[2] Under the proposal, members of these MPF-exempted ORSO schemes can also open a TVC account with an MPF scheme of their own choice for making MPF TVCs and enjoy the proposed tax deduction.

Deferred annuity

6. The Administration proposes that premiums paid for deferred annuity products that satisfy a set of criteria set out in the guidelines to be issued by IA will be eligible for tax deduction under salaries tax and personal assessment. According to the Administration, IA will closely monitor market development and update the eligibility criteria to strike a reasonable balance between promoting market development and protecting the interests of policy holders.

---

[1] Such grounds include early retirement at the age of 60, total incapacity, terminal illness, permanent departure from Hong Kong, death and small balance.

[2] ORSO schemes are set up voluntarily by employers to provide retirement benefits for their employees. Since the launch of the MPF System in 2000, the Mandatory Provident Fund Schemes Authority has exempted a number of ORSO schemes that meet the relevant requirements in accordance with the Mandatory Provident Fund Schemes (Exemption) Regulation (Cap. 485 sub. leg. B) from the MPFSO.

Maximum tax deductible limit per year

7. In the proposal discussed by the Panel in May 2018, the maximum tax deductible limit, being the aggregate limit that a taxpayer may claim tax deductions for MPF TVCs and deferred annuity premiums, was set at $36,000 per year.

8. In response to calls from the industry and Panel members, the Administration has raised the aggregate maximum tax deductible limit from $36,000 to $60,000 and extended the coverage of tax deductions to deferred annuity premiums for a taxpayer's spouse.

**Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018**

9. The Bill was gazetted on 7 December 2018 and received its First Reading at the Council meeting of 12 December 2018. The Bill seeks to:

(a) amend the Inland Revenue Ordinance (Cap. 112) to introduce new concessionary deductions concerning salaries tax and tax under personal assessment that may be allowed for annuity premiums paid under certain deferred annuity policies and for certain tax deductible voluntary contributions;

(b) amend the MPFSO and the Mandatory Provident Fund Schemes (General) Regulation (Cap. 485A) to provide for the tax deductible voluntary contributions; and

(c) provide for related and transitional matters.

10. Details of the major provisions of the Bill are set out in paragraph 20 of the Legislative Council Brief (File Ref.: INS/2/18C). If the Bill is passed, the proposed amendments would come into operation on 1 April 2019.

**Major views and concerns expressed by Members**

11. The Administration consulted the Panel on 15 May 2018 on the proposed legislative amendments. The major views and concerns of members are summarized in the ensuing paragraphs.

Maximum tax deductible limit and eligibility criteria

12. Some members considered that the proposed maximum tax deductible limit of $36,000 per year was too low and called on the Administration to increase the amount to enhance the incentive for taxpayers to purchase deferred annuities and/or make MPF VCs for their retirement. They further suggested raising the maximum tax deductible limit to $60,000 per year and doubling the amount if the annuity also covered the policy holder's spouse.

13. Some members highlighted the suggestions of the insurance industry on the Administration's proposal on tax deduction for deferred annuity premium which included (a) setting the minimum premium payment period at three years; (b) adjusting the percentage of guaranteed portion of pay-outs according to the accumulation period and the annuity period; and (c) raising the maximum tax deductible limit.

14. The Administration undertook to consider adjusting the maximum tax deductible limit. IA would further discuss with insurers in finalizing the eligibility criteria for deferred annuity products. The finalized criteria had to ensure that eligible products served the purpose of retirement planning and there was adequate protection for the policy holders.

Handling disputes and concerns about fees

15. Some members enquired how IA would handle disputes between the insurance intermediaries and policy holders of deferred annuity products in the future besides closely monitoring the sales process of intermediaries, and whether IA would consider providing mediation services in resolving the disputes. Furthermore, they pointed out that the high management fees charged by MPF trustees remained a problem and stressed the need for the Administration to keep on reviewing and refining the MPF system.

16. The Administration advised that IA would issue guidelines specifying detailed requirements, including disclosure requirements, of the deferred annuity products to facilitate members of the public to make informed decisions. Moreover, IA would implement the new licensing regime for insurance intermediaries in mid-2019 which would enhance regulation of intermediaries. The Administration added that IA had an established mechanism for handling disputes between insurance intermediaries and policy holders as well as complaints against insurance intermediaries. In addition to undertaking investigation, IA would also conduct case analysis with a view to identifying areas for improvement.

17. As regards the fees and charges of MPF schemes, the Administration said that the Government had been implementing initiatives to reduce fees and charges of MPF schemes including rolling out the fee-controlled Default Investment Strategy ("DIS") on 1 April 2017. It was envisaged that DIS would promote competition among MPF service providers on fees and fund performance. The Government would review the fee cap under DIS within three years after its implementation.

Protection for scheme members and policy holders

18. Some members sought clarification on whether accrued benefits in the TVC accounts could have the same status and enjoy the same protection as MPF MCs, in that the benefits would not be regarded as scheme members' assets for the purpose of applying for social assistance (e.g. Comprehensive Social Security Allowance ("CSSA")), could not be claimed by creditors in the event of bankruptcy of the scheme members, etc. They also enquired about the protection for scheme members and policy holders against default risks.

19. The Administration explained that contributions made to TVC accounts and MPF MCs were of the same nature in the sense that both would be subject to preservation requirements. The treatment of them for means-tests should be the same. The Administration noted that the cash value of an insurance policy was considered as readily realizable assets of an applicant for CSSA means-test. An annuity was an insurance policy and therefore should be, in principle, accorded the same treatment as other insurance policies in means-tests. Protecting the accrued benefits of the scheme members or the policies' cash value of policy holders from creditors in the event of bankruptcy should be carefully considered as there was a possibility of abuse by debtors.

Protection against default risks

20. As regards protection against default risks, the Administration said that a Compensation Fund was established for providing compensation to MPF scheme members for losses of accrued benefits that were attributable to misfeasance or illegal conduct committed by MPF trustees and other persons concerned with the administration of the MPF schemes. The Government was also preparing legislation for the establishment of a Policyholders' Protection Scheme for enhancing protection for policy holders' interests in the event of insolvency of an insurer. The proposed maximum compensation would be $1 million per insurance policy.

21. On the insolvency cases of insurers in the past, the Administration advised that there was one relating to a motor insurance company and one relating to the local subsidiaries of an Australian insurer. There were no insolvency cases involving insurers of life insurance business in the past.

**Latest development**

22. At the House Committee meeting held on 14 December 2018, Members agreed to form a Bills Committee to study the Bill.

**Relevant papers**

23. A list of relevant papers with their hyperlinks is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
10 January 2019

**Appendix**

## List of relevant papers

| Date of meeting | Panel/ Committee | Paper |
|---|---|---|
| 15 May 2018 | Panel on Financial Affairs | Administration's paper on "Tax deductions for deferred annuity premium and Mandatory Provident Fund voluntary contribution"<br>[LC Paper No. CB(1)926/17-18(07)]<br><br>Minutes of the meeting<br>[LC Paper No. CB(1) 1305/17-18] |
| 5 December 2018 (issue date) | | Legislative Council Brief on "Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Bill 2018"<br>[File Ref.: INS/2/18C] |
| 14 December 2018 | House Committee | Legal Service Division Report<br>[LC Paper No. LS29/18-19] |